IN THE HIGH COURT OF JUDICATURE OF BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL WRIT PETITION NO. 2039 OF 2004

Maurap Singh Kharwant ... Petitioner

versus

State of Maharashtra and anr. ... Respondents

...

Smt. S.N. Nath, for the Petitioner.

Mr. V.B. Konde Deshmukh, A.P.P., for the Respondents.

...

CORAM : A.M.KHANWILKAR,J.

21st October 2004

P.C.:

. Heard Counsel for the parties. Rule. Rule made returnable forthwith by consent. Mr. V.B. Konde Deshmukh, A.P.P., waives notice for the Respondents. As short question is involved, petition is taken up for final disposal forthwith by consent.

. It is not necessary to advert to all the contentions canvassed before this Court. Suffice

it to observe that principal grievance of the Petitioner is that the authority below has not afforded opportunity of being heard to the Petitioner. To get over this position, learned A.P.P. contends that the Petitioner can raise this contention in a statutory appeal available to the Petitioner. Besides, he submits that there is no substance in the grievance that the Petitioner has not been afforded opportunity in the matter, inasmuch as a show cause notice was issued to the Petitioner and the Petitioner has filed his explanation in response thereto. The authority below, after taking into account the said explanation, has decided the matter. It is submitted that in that sense, it is not a case of no hearing at all.

. Having considered the rival submissions, although it is open to the Petitioner to prefer statutory appeal; however, the grievance as is made before this Court is one relating to infraction of principles of natural justice. Such a grievance can be entertained even directly before this Court in writ jurisdiction so as to remedy the mischief. Insofar as the grievance of the Petitioner that he has not been afforded

opportunity of being heard is concerned, there is substance in the said submission. Merely because the authority has considered the written explanation filed by the Petitioner does not mean that there is compliance of principles of natural justice, which also obligates the authority to provide hearing to the affected party. Viewed in this perspective, the order passed by the authority below deserves to be set aside and, instead, the matter is restored to the file of the authority for being considered afresh on its own merits in accordance with law after providing opportunity of being heard to the Petitioner. The proceedings, which are remitted by this order, will be finally disposed of as expeditiously as possible in any case not later than four weeks from the receipt of writ of this Court. All contentions are left open. Petition allowed on the above terms.

. Parties to act on the authenticated copy of this order.

(A.M.KHANWILKAR,J.)